

NOLAN KROEKER)
Claimant)
VS.)
)
GLOBAL ENGINEERING & TECHNOLOGY)
Respondent)
AND)
)
SAFECO INSURANCE COMPANIES)
Insurance Carrier)

Docket No. 265,618

For the above reasons, respondent and its insurance carrier request the Board to reverse the preliminary hearing Order. In the alternative, they request the Order be modified to award medical benefits “for treatment deemed to be reasonable and necessary to treat the work-related injuries in question.”

Conversely, claimant contends the testimony is undisputed that he injured his back while working for respondent on January 11, 2001, and that the infection has complicated his treatment and must be cured before the back injury will resolve. Therefore, claimant argues the medical expenses for treating the infection should be paid by respondent and its insurance carrier.

The issues before the Board on this appeal are:

1. Did claimant injure his back on January 11, 2001, while working for respondent?
2. If so, should respondent and its insurance carrier also be responsible for the medical expenses incurred in treating the infection found in claimant's low back at the site of the alleged work-related injury?
3. Should respondent and its insurance carrier be responsible for temporary total disability benefits for such period that claimant is unable to work due to the infection?

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record compiled to date, the Board finds and concludes:

1. The preliminary hearing Order should be affirmed.
2. The Board affirms the Judge's finding that claimant injured his low back on January 11, 2001, while working for respondent. On that date, claimant experienced severe pain in his back while operating a metal shearing machine.
3. Following the work-related accident, claimant eventually began treating with Dr. James R. Lairmore, an orthopedic surgeon, and Dr. Jerry D. Peterie, an infectious disease specialist. While treating claimant for his back, the doctors discovered that claimant had an infection, or osteomyelitis, in his low back that was most likely caused from an abscessed tooth. In his June 5, 2001 letter to claimant's attorney, Dr. Lairmore wrote:

. . . My review of the medical record is that Nolan [claimant] complained of severe acute onset of back pain following shearing a heavy load on a metal shear press on January 11, 2001. Prior to this the patient did [not] have not [sic] the severe back pain for which he came to my office with complaints. It is possible that as a result of the osteomyelitis, which he may have had prior to his injury, this could have weakened the vertebral bodies and predisposed [him] to a compression fracture. Review of the MRI scan suggests compression fracture versus osteomyelitis. These could be concomitant and it is impossible to determine which came first or to sort out the presence of one in the absence or presence of the other. I do feel, however, that whether or not his osteomyelitis preexisted, clearly a traumatic

event occurred on that date which worsened his condition and would be more likely than not the result of a compression fracture from weakened vertebral bodies.

. . . the patient does have osteomyelitis, it is medically necessary that he be treated by an infectious disease specialist for this condition and if a compression fracture is present as I suspect that it is, it is necessary to cure the infection in order for this compression fracture to completely heal.

4. Dr. Peterie believes the infection in claimant's spine was probably caused by the bacteria from claimant's abscessed tooth. Moreover, the doctor believed that claimant had some preexisting damage to those vertebrae where the infection settled as it would be unusual for the bacteria to cause osteomyelitis in a normal vertebral body.

5. Based upon the opinions of Dr. Peterie, the infectious disease specialist, the Board concludes that the claimant's spinal infection is a natural consequence of his work-related low back injury. Therefore, respondent and its insurance carrier should be responsible for treating the infection at the site of claimant's low back injury and also responsible for any temporary total disability benefits while claimant is unable to work because of the low back infection.

WHEREFORE, the Board affirms Judge Clark's June 26, 2001 preliminary hearing Order.

IT IS SO ORDERED.

Dated this ____ day of August 2001.

BOARD MEMBER

c: Scott J. Mann, Hutchinson, KS
Gregory D. Worth, Roeland Park, KS
John D. Clark, Administrative Law Judge
Philip S. Harness, Director